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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,130	07/08/2003	Dennis R. Zander	87054.000006	8068
23387	7590	10/18/2005		
Stephen B. Salai, Esq. Harter, Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			EXAMINER MCCARRY JR, ROBERT J	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/615,130	Applicant(s) ZANDER, DENNIS R.	
	Examiner Robert J. McCarry, Jr.	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/27/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-27 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The Examiner has acknowledged the renumbering of the claims. The claims now read as 1-27.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lane et al (US 6,025,789) in view of Quinn et al (US 5,492,290) further in view of Jenks (US 3,163,125).

Lane et al discloses a model train sensor and signal comprised of a UHF receiver 10, which detects a remote signal from a train and determines the proximity of the train. The receiver sends the signal to a microcontroller 30, which monitors the time of the signal, received by the train and then activates a visual and audible signal. When a signal is transmitted it is in the form of a yellow signal 44 showing that a signal is being received and monitored for a predetermined length of time set by the microcontroller 30. When the predetermined time is met the microcontroller interprets a train is in the controlled path and lights a red signal 48, which shows other trains in the system to stop. When the microcontroller determines the train has passed the red signal is deactivated and a green signal 52 is then activated, showing other trains in the system

that it is safe to precede. The flowchart of figure 2 shows the step by step functioning of the system.

Lane et al discloses a proximity detector and signaling system as described above. However, Lane et al does not specifically state that the system is used with a model train. Quinn et al discloses a proximity control system for a model train system. It would have been obvious to one of ordinary skill in the art to have used the reference of Quinn et al as a teaching to show that proximity sensing systems, like that of Lane et al, can be used in model train systems.

Lane et al discloses a proximity detector and signaling system as described above. However, Lane et al does not disclose the use of a semaphore as a type of signal. Jenks discloses a semaphore arm 11 having red, yellow and green filters mounted on opening 13, 14 and 15 respectively and pass over a light when the arm of the semaphore moves. It would have been obvious to one of ordinary skill in the art to use a semaphore as a type of signal to show that a part of the train system is empty and safe for a vehicle to proceed or to show that the system is full and stop the vehicle.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lane et al (US 6,025,789) in view of Bonanno (US 2,925,584).

Lane et al discloses a proximity detector and signaling system as described above. However, Lane et al does not disclose the use of a swinging banjo as a type of signal for the vehicles. Bonanno discloses a swinging banjo signal to signal for trains to precede or stop at a certain point on a train system. When a train passes and energizes the circuit of the banjo signal the signal will swing to show that it is unsafe for another

train to proceed. When there is no train to energize the circuit the banjo will sit stationary to show that it is safe to proceed through the system. It would have been obvious to one of ordinary skill in the art to use a swinging banjo as a type of signal for trains to convey a stop signal or a proceed signal.

Response to Arguments

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claims 10-27 are allowed.

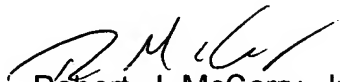
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (571) 272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).


Robert J. McCarry, Jr.
Examiner
Art Unit 3617

RJM
October 5, 2005


S. JOSEPH MORANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600